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## THE PANAMA CANAL — EVOLUTION, TREATY STATUS, AND STRATEGIC IMPORTANCE

BY

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INFANTRY

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# ABSTRACT

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The Panama Canal is studied beginning with its conception and construction. The treaty arrangements which have applied in the past, present negotiations and their possible future implications are discussed.

Panama's desire for control is examined and the strategic importance of the canal is evaluated. There is a chance that Panama's wishes may be gratified, however a number of Congressmen view a new treaty with disfavor. In the opinion of the author, the United States should retain ownership and control of both the Canal and the Zone.

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## INTRODUCTION

A study of the Panama Canal is particularly important at this time as treaty negotiations are ongoing which could drastically change relations extant since 1903. The Canal has proven an important strategic asset to this country over the years and any change involving our use of it warrants careful study.

Our nation has understood for years that a day might come when the present canal could become too crowded and obsolete and that an additional link between the Atlantic and Pacific oceans might be required.

The Navy's largest ships were able to easily pass through the Canal in 1914. This is true today for most of the fleet, however large, strategically important aircraft carriers cannot. It is apparent that the Canal is, to a degree, outmoded.

Critics of a policy designed to retain control of the present Canal say the United States would suffer little if control were relinquished. They postulate that our efforts should be directed toward negotiations permitting construction of a new, bigger, sea-level canal in the region.

The Panamanians have expressed strong dissatisfaction with present treaty arrangements and desire renegotiation. A treaty permitting construction of a new canal would very likely be difficult to achieve. The entire subject of the old and/or a new or modified canal constitutes a highly volatile issue with which the United States must come to grips.

## BACKGROUND

There are two important sea routes which link the Atlantic and Pacific oceans; one around the southern tip of South America and the other through the Panama Canal. The Canal route came into being as a result of the Hay-Bunau-Varilla Treaty signed by the United States and Panama in November 1903. The United States was granted a strip of territory 10 miles wide and 50 miles long for the construction, maintenance, operation and protection of a Canal between the Atlantic and Pacific. Panama also granted to the United States -- in perpetuity -- all the rights, power, and authority to act within that strip of territory as "if it were the sovereign".<sup>1</sup> This treaty came into being after Panama cut its ties with Columbia and on November 4, 1903 declared itself a new republic. An appreciation of the action may be gained from the following quote:

A Colombian contingent landed at Colon on the Caribbean side of the isthmus, but when American Marines came ashore supported by the guns of the NASHVILLE, the Colombian troops struck their tents and sailed for home. Panama City, on the Pacific side, was bombarded briefly by a Colombian gunboat. The revolt was almost bloodless; one man and one donkey were killed. Columbia could do nothing but protest.<sup>2</sup>

On November 4 Amador Guerro announced: "Only yesterday we were the slaves of Columbia. Today we are free...President Theodore Roosevelt has come to our aid...Long live the Republic of Panama! Long live President Roosevelt!" That is how it was done.<sup>3</sup> Construction of the canal was completed in 1914 at a

cost of \$387 million. Panama received a \$10 million initial payment and annual payments of \$250,000 until 1936. The treaty was revised in 1936 and 1955, increasing U.S. payments to Panama as follows: \$430,000 a year from 1936 to 1955; \$1,930,000 a year until 1974; \$2,300,000 since 1974.<sup>4</sup>

Panama has been dissatisfied with the 1903 treaty almost since inception. They particularly dislike the terms specifying Panama's share of canal revenues and the United States' perpetual control over the strip of land splitting the country.

Panamanian discontent was strong enough to cause riots in 1964 in which 20 Panamanians and four Americans were killed.<sup>5</sup> In the wake of this violence, by 1967, United States and Panama had negotiated three draft treaties. This proved an exercise in futility as opposition in our Congress was so strong that a treaty was never submitted for ratification.<sup>6</sup>

After a great deal of concerted effort, new talks were agreed to in 1970 and opened in 1971. The Chief United States negotiator appointed in September 1973, is former Ambassador to South Vietnam Ellsworth Bunker. The talks have resulted in an agreement between the United States and Panama on a series of eight principles which are to serve as the basis for formal negotiations. U.S. Secretary of State Henry Kissinger and Foreign Minister Juan Tack of Panama signed the agreement of principles on 7 February 1974. The Congressional Quarterly Weekly Report gives the following description:

The eight principles called for an entirely new treaty with a fixed termination date, thus ending the concept of perpetuity; the return to Panama of the territory in which the canal is located; a "just and equitable" share for Panama of the benefits from the canal; a role for Panama in administering the canal during the life of the new treaty and total responsibility for its operation upon termination of the treaty; joint protection and defense of the canal by the two countries; the rights necessary for the United States to regulate the flow of ships through the canal and to operate, maintain and defend it; and provisions for the future enlargement of the waterways.<sup>7</sup>

#### WHY CHANGE?

Those who favor a new treaty, notably the Ford administration, argue that unless a new treaty is negotiated there is a strong likelihood that bitterness will continue to grow in Latin America. Violence could erupt, either by Panamanians or possibly others sufficiently motivated. A possible closure of the canal to traffic could occur. Ambassador Bunker has stated that, under such conditions, a new treaty will serve U.S. interests better than the existing one.

He also has said that other Latin American nations are viewing the negotiations as a "test of U.S. intentions in the hemisphere". A new treaty, in his view, would not mean the immediate end of U.S. involvement in administering the canal. In elaboration, Bunker said: "Putting it simply, I believe our interest in keeping the canal open and operating for our own strategic and economic purposes is best served by a partnership agreement for a reasonably

additional period of time."<sup>8</sup>

The U.S. proponents of the treaty seem to feel that the status quo is no longer possible. They appear to believe that economic, political and social imperatives which have come into being will not permit it. In my opinion, some seem ready to give up what this nation, in the view of many people, clearly and legally possesses in exchange for what will hopefully be a more acceptable and efficient use of this vital facility. The importance of the canal to Panama is shown by the following quote:

The Panama Canal links Panama's new cities with markets around the world at transportation rates which are cheaper than overland trucking to her Central American neighbors. Servicing the canal is the country's major source of income, although most of the labor force is engaged in agriculture. Despite the wealth it produces, the canal, and the 10-mile wide Canal Zone that borders it, are a focus of resentment to a degree that few North Americans seem to understand. <sup>9</sup>

Panama is pressing hard for a new treaty and has claimed for years that the direct annuity (\$2.3 million since 1974) which it receives is far too little. They also feel that U.S. control over the zone effectively precludes Panama's development of commercial and service activities in the area and a subsequent receipt of substantial tax revenues. They also desire to gain control of many land and water areas, particularly those close to Panamanian urban centers. This collides directly with the problem of determination of exactly what land and water areas the U.S. will require for operation and defense of the Canal and is thus not likely to be easily resolved.



Another major issue is the duration of the treaty. Panama has publicly said that "there is no colonial situation which lasts for 100 years or a Panamanian who could endure it."<sup>10</sup> They obviously think it's time for change.

### THE NEGOTIATION PRINCIPLES

To properly understand the negotiations taking place it is worthwhile to examine each of the eight principles individually:

1. The treaty of 1903 and its amendments will be abrogated by the conclusion of an entirely new interoceanic canal treaty.

The word is conspicuously absent from the stated principle, but the galling "sovereignty" included in the 1903 version of the treaty is what is destined for elimination. In light of the fact that the 1903 treaty was amended in both 1936 and 1955 and the sovereignty, and perpetuity clauses were untouched leads one to believe the U.S. is indeed lawfully sovereign and in my opinion should remain so. It is doubtful whether the canal would have ever been built without this clause and certainly the United States could not maintain control without it.

2. The concept of perpetuity will be eliminated. The new treaty concerning the lock canal shall have a fixed termination date.

The perpetuity clause is in the present treaty by virtue of Panama's offering it as an inducement for the U.S. to construct the canal in Panama. As a proviso of the Spooner act of 1902, our president was mandated to negotiate for a possible site in Nicaragua if negotiations

with Columbia were not successful. It appeared that such was to be the case and Panama revolted. Bunau-Varilla, acting in the name of the revolutionary units immediately offered perpetuity to convince the U.S. to construct the Canal in Panama. He may also have been seeking protection by the U.S. Forces.

3. Termination of United States jurisdiction over Panamanian territory shall take place promptly in accordance with terms specified in the treaty.

This is misleading. A clear, concise definition of what territory belongs to whom exists and in no case does the U.S. have jurisdiction over any Panamanian territory. Transfer of territory was made by "grant" and has been confirmed by the Supreme Court.<sup>11</sup>

4. The Panamanian territory in which the canal is situated shall be returned to the jurisdiction of the Republic of Panama. The Republic of Panama, in its capacity as territorial sovereign, shall grant to the United States of America, for the duration of the new interoceanic canal treaty and in accordance with what that treaty states, the right to use the lands, waters, and airspace which may be necessary for the operation, maintenance, protection and defense of the canal and the transit of ships.

The argument applied to the previous point also applies here. Obviously, the canal is not in Panamanian territory but in U.S. territory. The relationship described above can best be likened to a status-of-forces agreement whereby the U.S. would be present purely at the suffrage of Panama and thus subject to eviction. Defense of our rights to remain would undoubtedly draw unfavorable comments from the world community.

5. The Republic of Panama shall have a just and equitable share of the benefits derived from the operation of the canal and its territory. It is recognized that the geographic position of its territory constitutes the principal resource of the Republic of Panama.

The Republic of Panama, in my opinion, already receives a just share of benefits of the canals operation. Panama receives payment from tolls, augmented by numerous other benefits as described by Dr. James P. Lucier:

But the benefits to Panama from tolls do not represent its chief benefits. Panama benefits also from the \$65.5 million payroll paid to Panamanian citizens, from the skills and business organization taught the employees of the Canal Company, and from the research projects on tropical diseases and sanitation that still continue. Panama is the highest per capital recipient of U.S. AID programs, and is preeminent among Latin American economies. In recent years it has become the international banking center of Latin America, with a total of fifty-eight banks in Panama City today. This economic development would suffer without the stability and security of the U.S. presence in the Zone.<sup>12</sup>

We should also not forget that all these benefits accruing to Panama are the direct result of U.S. monetary investments, skill and technology embodied in the canal which serves the commerce of the world.

6. The Republic of Panama shall participate in the administration of the canal, in accordance with a procedure to be agreed upon in the treaty. The treaty shall also provide that Panama will assume total responsibility for the operation of the canal upon the termination of the treaty. The Republic of Panama shall grant to the United States of America the rights necessary to regulate the transit of ships through the canal, to operate, maintain, protect, and defend the canal, and to undertake any other specific activity related to those ends, as may be agreed upon in the treaty.

I can see no advantage in joint management of the canal. The U.S. has demonstrated its ability to do the job efficiently alone. There is a great deal of apprehension even among Latin countries as to what might happen if Panama becomes greatly involved in the administration of the canal. Members of Congress have also expressed concern.

Senator Paul J. Fannin (R Ariz) in a speech on 11 June of this year referred to the historic instability of the Panamanian government and proffered the opinion that only a strong, stable government such as that of the United States can guarantee an open canal.<sup>13</sup>

7. The Republic of Panama shall participate with the United States of America in the protection and defense of the canal in accordance with what is agreed upon in the new treaty.

Panama's participation in defense of the canal is highly questionable. She does not possess significant armed forces and would be able to offer little help. Regardless of the size of her assistance effort, the effort itself would no doubt be interpreted as entitling her to a share in the direction of the defense. An awareness of the historic instability of her government leads one to view this course with trepidation.

8. The United States of America and the Republic of Panama, recognizing the important services rendered by the interoceanic Panama Canal to international maritime traffic, and bearing in mind the possibility that the present canal could become inadequate for said traffic, shall agree bilaterally on provisions for new projects which will enlarge canal capacity. Such provisions will be incorporated in the new treaty in accord with the concepts established in Principle 2.

Some observations on the possible alternatives/modifications to the present canal are offered by Dr. James P. Lucier:

'There is already a plan before congress which is designed to expand the capacity of the present canal at an estimated cost of \$1 billion. No change in the alinement of the present canal or boundaries is involved. A plan calling for a second canal to be constructed at sea level a few miles west of the present canal has also been developed. This sea level canal, proposed in 1970 by the Atlantic-Pacific Interoceanic Canal Study Commission, carried a \$3 billion price tag and has never been seriously advanced because of the cost, the ecological hazards, and the uncertainty of the treaty negotiations. Moreover, it is doubtful that Congress would authorize construction and appropriate the necessary funds for a canal project with a fixed termination date.<sup>14</sup>

## STRATEGIC ASPECTS

The establishment of a two ocean navy and the fact that a number of our ships are too large to transit have significantly reduced the strategic role of the canal. A large volume of shipping destined for the war zones transited the Canal in both World War II and the Korean War. It was also heavily utilized by vessels employed in support of recent operations in Southeast Asia.

The Interoceanic Canal Commission Study Group has reported that closure or denial of the Panama Canal would approximately double the requirement for ships operating from Atlantic and Gulf ports to support a specified level of combat operations in the Pacific. The Group report also affirmed that ocean shipping will be utilized to move perhaps as much as 90% of total war materials utilized in future wars.<sup>15</sup> The very nature of such cargoes as POL, Tanks, Ammunition and various other heavy equipment make them particularly suitable for ocean shipping. The canal's importance in such a role is obvious. Economically there is also an advantage to canal passage. It cuts about 8,000 miles from the coast-to-coast route around Cape Horn and results in time savings estimated to be 15 to 30 days, depending on the speed of the ship concerned.

Captain Raymond Komorowski, USN, quoting data obtained by the Interoceanic Canal Study, offers the following highly interesting observations:

The size of the locks, 110 feet wide, 41 feet deep and 1000 feet long prohibit their use by any aircraft carrier presently commissioned or under construction. In addition, there are 1300 ships afloat,

under construction, or on order, which cannot transit, and approximately 1750 more ships that cannot pass fully loaded owing to draft limitations in seasonal low water".<sup>16</sup>

The present canal is certainly vulnerable to nuclear attack and is also vulnerable to sabotage. There appears no real alternative site which would not be vulnerable to nuclear attack, in other words, a second canal would have the same degree of vulnerability. The strategic importance of the security of the longer, slower southern passage between the oceans is thus emphasized.

It is instructive to briefly compare the strategic positions of the Suez and the Panama Canals. The Suez is of great importance to Russia in that it provides a short route from their Black Sea bases to the open oceans, particularly the Indian Ocean. They have a modern fleet there which can operate at an estimated 33% greater efficiency if the short route is available for support vessels to use. Our diplomatic efforts have been directed strongly toward opening the Suez and we have even provided large and expensive assistance teams to aid in clearing sunken hulks and ordnance from the channel. The Soviet Navy is obviously going to benefit from this while our own navy may well have to reckon with a closed or restricted Panama Canal.

Economically, the two canals are also important. Suez traffic is mostly oil while cargoes transiting the Panama Canal are much more diverse and can be said to represent the trade of the world. This trade is of great significance to Latin American Countries and to Japan as well. Coal and coke used for making Japanese steel are

shipped via the canal from Hampton Roads to Japan. This raw material is crucial to Japan's automobile industry; their interest is therefore obvious. The Congressional Quarterly Weekly Report contains this statement which tends to further illustrate the economic importance of the canal:

The canal's importance to world and U.S. commerce is unquestioned. About 70 percent of canal tonnage either originates in or is destined for the United States. That tonnage represents about 16 percent of the total U.S. export and import tonnages. U.S. registered vessels crossed the canal 1,276 times in fiscal 1973.<sup>17</sup>

There is also the possibility of a Communist takeover in Panama to consider, although some consider this a remote possibility. If we did face such a situation in Panama or a similar sizeable threat almost anywhere in Latin America, we would no longer have a secure southern flank. We might be forced to commit forces and resources there which would take away from our commitments elsewhere. United States freedom of action world-wide is directly affected by the degree of security we have in the Caribbean area. During recent years there have been numerous Latin insurgent movements. Most notable among these is Cuba where there was without doubt, sizeable Communist support and assistance. Many feel that there is already strong evidence of communist activity in Panama. If the pending treaty were signed and a successful takeover of the government took place we could face Communist control of the vital canal. Such an eventuality would be unacceptable considering the geographic proximity of the area to the United States and its previously described importance to us.

The United States has a number of troops stationed in the Canal Zone. Some views on their presence are illustrated by the following extract from the Congressional Record:

The original purpose of U.S. troops in Panama was to protect the Canal from a foreign aggressor. That is still ostensibly their primary mission. However, the Canal Zone is also a command or coordination center for most U.S. Armed Forces programs and activities in Latin America, including foreign military assistance and training, intelligence, and operational preparedness. The legality of these operations has been questioned. However, the Zone, as long as it remains relatively secure from renewal of the nationalistic attacks of the 1960s, provides a location of unrivaled excellence for an administrative headquarters, communications center, and training ground."<sup>18</sup>

The role of our forces under a new treaty would of course be determined based on the provisos of the treaty. They would almost certainly continue to have a role in defense of the canal.

#### A PERSONAL VIEW

I believe it is reasonable to conclude that most governments of the world are controlled by reasonable men. Those men and those nations, viewing the situation logically and realistically, hopefully will conclude that continued United States control and operation of the Panama Canal is essential. In no other way is there a degree of certainty that this most vital facility is going to be available to the commerce of the world. The efficiency and "can do" attitude under which the canal operates characterize the American style. We have performed a service to the world by building it, continue that service by the



facile and unbiased operation of it, and would do the world no favor by handing it over to anyone. No doubt there are many people and many nations who, for a variety of reasons, do not agree with this point of view. That is their privilege and adequate forums exist for their views to be heard.

Our Congress has voiced loud and strong opposition to administration plans for the new treaty. I believe the Congress is representing the views of the majority of United States citizens. The aspirations of Panama are understandable as acquisition of control of the canal would be a tremendous asset to them. We should however, place our own welfare and the peace and security of this nation and the world foremost in the matter. A giveaway of the canal would mark a downward step in the progress of a great country.

  
CHARLES D. BURNETTE  
LTC, Infantry

#### FOOTNOTES

<sup>1</sup>Ellsworth Bunker, "Panama and The United States: Toward a New Relationship," Dept. of State News Release, May 22, 1975, p. 1.

<sup>2</sup>Ernest R. May, "Crises in Venezuela and Panama," The Life History of the United States, New York: Time Incorporated, 1964, Vol 9, p. 123, 124.

<sup>3</sup>Alexander Bovin, "Of Might and Right," New Times, Jan-June 1974, No. 10, pp. 20-21.

<sup>4</sup>Richard C. Schroeder, "Panama and Latin Policy," Editorial Research Report, II (No. 15, 1975), 774.

<sup>5</sup>Ibid., p. 771.

<sup>6</sup>Ibid., p. 772.

<sup>7</sup>"Pressure Mounts to Keep Panama Canal," Congressional Quarterly Weekly Report, 5 July 1975, p. 1442.

<sup>8</sup>Bunker, p. 3.

<sup>9</sup>Dwight B. Heath, "Current Trends in Central America" Current History, January 1975, p. 35.

<sup>10</sup>Bunker, p. 5.

<sup>11</sup>Dr. James P. Lucier, "Panama Canal: Focus of Power Politics," Strategic Review, Spring 1974, p. 43, quoting: Wilson v. Shaw, 204 U.S. 24, 1907, at 31, 32, 33: "This new republic [Panama] has by treaty granted to the United States rights, territorial and otherwise . . . A treaty with it [Panama] ceding the Canal Zone, was duly ratified . . . Congress has passed several acts based upon the title of the United States, among them one to provide a temporary government . . . It is hypercritical to contend that the title of the United States is imperfect, and that the territory described does not belong to this nation, because of the omission of some of the technical terms used in ordinary conveyances of real estate."

<sup>12</sup>Ibid., p. 38.

<sup>13</sup>"Pressure Mounts To Keep Panama Canal," p. 1444.

<sup>14</sup>Lucier, p. 39.

<sup>15</sup>Captain Raymond A. Komorowski, USN, "Latin America: An Assessment of U.S. Strategic Interests," U.S. Naval Institute Proceedings, Jan-June 1973, Vol 9, p. 154.

<sup>16</sup>Ibid., p. 155.

<sup>17</sup>"Should U.S. Yield Control of the Panama Canal?," Congressional Quarterly Weekly Report, 2 March 1974, p. 549.

<sup>18</sup>Robert G. Cox, "Choices for Partnership or Bloodshed in Panama," Congressional Record, 20 May 1975, Vol 121, p. S8703.

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